S.B.Criminal Revision Petition No.953/2006

Vinod Bhai
v.
Smt.Shanti Ben & Anr.

Date of Order :: 4th January, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. N.K.Rastogi, for the petitioner.
Mr. Niranjan Singh, for the respondents.

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By this petition under Section 397 read with 401 Cr.P.C. a challenge is given to the order dated 27.6.2006 passed by learned Additional Sessions Judge, Banswara accepting the revision petition preferred on behalf of the respondents to challenge the order dated 10.8.2004 passed by learned Additional Chief Judicial Magistrate, Kushalgarh rejecting an application submitted as per the provisions of Section 125 Cr.P.C. on behalf of respondent Smt. Shanti Ben. Learned Additional Sessions Judge, by the order impugned accepted the application preferred under Section 125 Cr.P.C. and allowed maintenance of Rs.1000/- per month to respondent Smt. Shanti Ben alongwith her minor daughter w.e.f. 12.6.2003.

The contention of counsel for the petitioner is that under the law the burden is placed in the first instance upon the wife to show that the means of her husband are sufficient and also that the husband

must have neglected or refused to maintain her. As per counsel for the petitioner the respondents failed to establish the conditions referred above for grant of maintenance and, therefore, the order is bad. It is also asserted by counsel for the petitioner that no reason was available with the learned Additional Sessions Judge to interfere with the order passed by the trial court and also to award maintenance from the date of filing the application.

I have considered the arguments advanced and also record of the trial court that was called by this Court vide order dated 14.2.2007.

From the order impugned itself it is apparent that adequate evidence was available on record to presume that the petitioner was having sufficient means to maintain his wife. Adequate evidence is also available to establish that the respondents are not able to maintain themselves and the husband neglected his wife and daughter from the requisite maintenance.

I also do not find any merit in the contention of counsel for the petitioner that there was no good reason available for allowing maintenance from the date of submitting the application. From the order impugned it is apparent that the maintenance was allowed w.e.f. 12.6.2003 on the count that an

application seeking interim maintenance was moved on that day.

In view of the reasons above, I do not find any error in the order impugned that may warrant interference of this Court in its revisional jurisdiction. Accordingly, the revision petition is dismissed.

(GOVIND MATHUR),J.

Kkm/ps.